

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RUDOLPH WHITE; ROBERT COX; KENLEY
EXUME; LESLIE GOOD; GIUSEPPE BARLETTA;
COMMONWEALTH SECOND AMENDMENT,
INC.; FIREARMS POLICY COALITION, INC. and
SECOND AMENDMENT FOUNDATION,

Plaintiffs,

-against-

MICHAEL COX, in his official capacity as police commissioner of the city of Boston,

Defendant.

Civil Action No.
1:23-cv-12031-IT

RESPONSE TO ORDER TO SHOW CAUSE

Plaintiffs apologize for their delay in formally serving the complaint. In short, and as explained in further detail herein, this delay resulted from our ongoing discussions with Defendant's counsel, which sought to resolve this matter without the Court's involvement, or alternatively, to narrow and more precisely frame the dispute for resolution. We have now filed an Amended Complaint and perfected service, and are moving forward.

This case concerns substantial delays in processing firearms license applications. As explained in the Complaint and Amended Complaint, individuals who apply for firearms licenses in Boston must wait months and months for the Boston Police Department’s Licensing Unit to process their applications. See Amended Complaint (Doc. No. 10) ¶ 1. Defendant Michael Cox is the “licensing authority” responsible for issuing firearm licenses in Boston. See id. ¶¶ 15, 29. The problem, unfortunately, is not new. Plaintiffs previously sued the Boston Police Commissioner for similar months’ long delays in 2021, and while the Department resolved its application backlog at the time, the problem has now just recurred. See id. ¶ 2.

Plaintiffs filed suit on August 31, 2023, with the intention of promptly moving for a preliminary injunction. Shortly after filing suit, Plaintiffs' counsel reached out to counsel for the City of Boston in an attempt to resolve the matter without the Court's involvement, as Local Rule 7.1(a)(2) requires. There was some delay because the attorney who had previously handled this matter (for Defendant) no longer worked for the City of Boston, but we ultimately made contact with James Megee, who represents Defendant, on October 13, 2023.

Over the next several weeks, Mr. Megee, Mr. Guida and the undersigned had a series of conferences in which we determined the apparent extent of the current backlog (i.e. how many applications were pending and how many were being processed at various points in time) and what Defendant could do to address it. Notably, Defendant reported that it had assigned two additional personnel to the Licensing Unit. We also discussed some procedural changes that could be made in order to reduce the likelihood of significant backlogs developing in the future. During these conferences, Mr. Megee agreed to accept service by email, and we advised him that we would serve him after we amended the complaint to include at least one additional party.

We are having a further conference with Defendant's counsel, at which we expect to learn the current status of the backlog, in the immediate near future. (We have not yet been able to confirm a proposed time tomorrow.) We should be in a better position to decide whether to pursue preliminary relief after that upcoming conference. In any event, we have now filed the Amended Complaint and completed service on Defendant. See Doc. No. 11. Again, we apologize for the delay, and emphasize that it resulted from our attempts to resolve this matter without the Court's involvement.

Dated: December 18, 2023

Respectfully submitted,
THE PLAINTIFFS,
By their attorneys,

/s/ David D. Jensen
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on Dec. 18, 2023.

/s/ David D. Jensen
David D. Jensen